

Sixth Appellate District

San Jose, California

MONDAY, JULY 28, 2003

(no minute approved orders)

TUESDAY, JULY 29, 2003

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Bamattre-Manoukian, J.; Elia, J.; and Beth Miller, Deputy Clerk.

H023961 PEOPLE v. RAMIREZ

Cause called and argued by Diana M. Teran appearing for Appellant and by Leonor Velasquez, Certified Law Student, with Greg Zywicke, Deputy Attorney General, Supervising, appearing for Respondent. Cause ordered submitted.

H023290 PEOPLE v. JOHNSON

Cause called and argued by William Robinson appearing for Appellant and by Morris Lenk, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024522 LAMOTHE v. ON THE BEACH SURF SHOP, INC., et al.

Cause called and argued by Ronald P. Goldman appearing for Appellant and by David S. Spini appearing for Respondents. Cause ordered submitted.

H023613 ENGINEERED PACKAGING SERVICES v. R.A. VEGA INTERNATIONAL, INC., et al.

Cause called and argued by John Michael O'Connor appearing for Appellants and by Geoffrey H. Yost appearing for Respondent. Cause ordered submitted.

H024181 VAN HORN v. VAN HORN

Cause called and argued by Bruce Janke appearing for Appellant and by Craig C. Van Keulen appearing for Respondent. Cause ordered submitted.

H024062 RAYNOR, et al. v. DRUGE, et al.

Cause called and argued by Richard H. Wilson appearing for Appellants and by Eric Haiman appearing for Respondents. Cause ordered submitted. Court recesses until 1:30 p.m.

Sixth Appellate District

San Jose, California

TUESDAY, JULY 29, 2003 (continued)

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.  
Present: Bamattre-Manoukian, Acting P.J.; Wunderlich, J.; Mihara, J.; and W. Magsaysay, Deputy Clerk.

H023781 PEOPLE v. MYINT

Cause called and argued by Kathleen W. Novoa appearing for Appellant and by Laurence K. Sullivan, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H022635 PEOPLE v. ELLARD, et al.

Cause called and argued by Kyle Gee appearing for Appellant Ellard, by Dennis Riordan appearing for Appellant Yancey and by Dorian Jung, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024544 REDWOOD EMPIRE, et al. v. GOMBOS, et al.

Cause called and argued by Kevin Wheelwright appearing for Appellants and by Richard Van'trood appearing for Appellants. Cause ordered submitted.

H023513 CAZ DEVELOPMENT COMPANY v. GALEB

Cause called and argued by Michael E. Brown appearing for Appellant and by Michael P. Verna appearing for Respondent. Cause ordered submitted. Court adjourns.

H025446 PEOPLE v. GARCIA

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Rushing, P.J., Mihara, J.)  
Filed July 29, 2003

H025387 PEOPLE v. QUINTANA

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Rushing, P.J., Mihara, J.)  
Filed July 29, 2003

Sixth Appellate District

San Jose, California

Tuesday, July 29, 2003 (continued)

H024426 COUNTY OF SANTA CRUZ v. HIBBARD

The judgment is reversed. The matter is remanded for further consideration of the amount which defendant is obligated to pay to the County as reimbursement for funds expended by the County for the foster placement of defendant's daughter. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)  
Filed July 29, 2003

H025168 PEOPLE v. JOHNS

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Elia, Acting P.J., Mihara, J.)  
Filed July 29, 2003

H024871 SAN JOSE PARKING, INC., v. THE SUPERIOR COURT OF SANTA CLARA COUNTY; CITY OF SAN JOSE REDEVELOPMENT AGENCY

Let a peremptory writ of mandate issue directing the trial court to vacate its order finding that the Agreement creates an interest in real property that is condemnable by Agency. The parties shall bear their own costs. (published)

(Rushing, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)  
Filed July 29, 2003

H024347 PEOPLE v. CASTILLO

Appellant's motion for summary reversal is granted. (See, *Stogner v. California* (2003)\_\_\_U.S.\_\_\_[123 S.Ct. 2446].) The remittitur shall issue forthwith.

(Premo, Acting P.J., Elia, J., and Bamattre-Manoukian, J. participated in this decision.)  
Filed July 29, 2003

H024286 WATT v. SARATOGA CAPITAL, INC.

The judgment is affirmed. Each party to bear his or its own costs on the appeal and the cross-appeal. (not published)

(Wunderlich, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)  
Filed July 29, 2003

Sixth Appellate District

San Jose, California

Tuesday, July 29, 2003 (Continued)

H025147 WOLSCHLAGER v. FIDELITY NATIONAL TITLE INSURANCE CO., et al.

The order denying the petition to compel arbitration is reversed. The matter is remanded so that the trial court may enter its order granting the petition to compel arbitration and staying the matter pending arbitration. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed July 29, 2003

H023687 PEOPLE v. ELIAS

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed July 29, 2003

H023970 PEOPLE v. VILLARREAL

By the Court\*:

Appellant's petition for rehearing is denied.

Filed: July 29, 2003

\*Before Rushing, P.J., Premo, J. and Elia, J.

WEDNESDAY, JULY 30, 2003

H024577 DENLINGER v. CHINADOTCOM CORPORATION, et al.

The trial court's order is reversed. Costs on appeal to appellant Denlinger. (published)

(Rushing, P.J.; We concur: Elia, J., Mihara, J.)

Filed July 30, 2003

H024645 PEOPLE v. DELEON, et al.

The judgments as to both defendants are affirmed. Sentence on count 3 is ordered stayed as to both defendants. The clerk of the superior court is ordered to correct the abstracts of judgment and send corrected copies to the Department of Corrections. (not published)

(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)

Filed July 30, 2003

Sixth Appellate District

San Jose, California

Wednesday, July 30, 2003 (Continued)

H024006 PEOPLE v. LOFFLAND

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Bamattre-Manoukian, J.,  
Wunderlich, J.)  
Filed July 30, 2003

H023208 PEOPLE v. WEAVER

By the Court\*:

Appellant's petition for rehearing is granted.  
Filed: July 30, 2003  
\*Before Bamattre-Manoukian, Acting P.J., Wunderlich, J. and  
Mihara, J.

H025419 PEOPLE v. HOLLIMAN

The judgment is affirmed. (not published)  
(Mihara, J.; We concur: Rushing, P.J., Wunderlich, J.)  
Filed July 30, 2003

H024631 PEOPLE v. GRIJALVA

The judgment is reversed. The matter is remanded to the  
trial court with instructions to vacate its previous order that  
directed appellant to pay \$300 in attorney's fees. The court  
shall then either conduct a noticed hearing on appellant's  
ability to pay attorney's fees or direct the clerk of the court  
to amend the abstract of judgment to strike the attorney's fees  
order and forward a certified copy of the amended abstract to the  
Department of Corrections. No other modification of the judgment  
is required. (not published)  
(Elia, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)  
Filed July 30, 2003

Sixth Appellate District

San Jose, California

Wednesday, July 30, 2003 (Continued)

H025024 In re N.P., et al.; DFCS v. MELINDA P., et al.

The juvenile court's orders terminating the parental rights of Edward F. and Melinda to J. and E. are reversed and remanded solely for the juvenile court to decide whether the Department has complied with the ICWA. If the court determines that the Department has not complied with the ICWA, it shall order the Department to comply and proceed accordingly. If the court determines that the Department has complied with the ICWA, it shall reinstate its orders as to J. and E. The juvenile court's order terminating Melinda's parental rights to N. is reversed and remanded for a determination of ICWA compliance, as described above, and for an "updated review hearing" addressing N.'s adoptability. "At the updated review hearing the court should ascertain whether [N. is] adoptable in light of the new information brought to this court's attention during the pendency of the appeal . . . . If [she is] adoptable, then parental rights should be summarily terminated. If, however, the court finds that [she is] not now adoptable . . . , then the court should consider an appropriate order under section 366.26, consonant with not terminating parental rights." (Jayson T. at p. 78.) (not published)  
(Mihara, J.; We concur: Elia, Acting P.J., Wunderlich, J.)  
Filed July 30, 2003

H025202 In re COREY R.; DFCS v. THOMAS R.

The order terminating parental rights is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)  
Filed July 30, 2003

H024401 PEOPLE v. SILVA

By the Court\*:

Appellant's petition for rehearing is denied.  
Filed: July 30, 2003

\*Before Premo, Acting P.J., Elia, J. and Bamattre-Manoukian, J.

Sixth Appellate District

San Jose, California

THURSDAY, JULY 31, 2003

H024778 PEOPLE v. HALL

The judgment is affirmed. (not published)  
(Mihara, J.; We concur: Elia, Acting P.J., Wunderlich, J.)  
Filed July 31, 2003

H024803 PEOPLE v. TOLENTINO

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Elia, Acting P.J., Mihara, J.)  
Filed July 31, 2003

H023030 PEOPLE v. MONTANO, JR.

The judgment is affirmed. (not published)  
(Wunderlich, J.; I concur: Elia, J.; Concurring opinion by  
Rushing, P.J.)  
Filed July 31, 2003

H023788 PEOPLE v. CORTEZ

The judgment is affirmed. (not published)  
(Elia, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)  
Filed July 31, 2003

H024633 PEOPLE v. GRANADO

The judgment is affirmed. (not published)  
(Mihara, J.; We concur: Elia, Acting P.J., Wunderlich, J.)  
Filed July 31, 2003

FRIDAY, AUGUST 1, 2003

H023290 PEOPLE v. JOHNSON

The judgment is affirmed. (not published)  
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J.,  
Wunderlich, J.)  
Filed August 1, 2003